

that the party accused shared in the criminal purpose, and in this case, if you find the defendant did not overt act in carrying out the conspiracy, and did not enter into any unlawful agreement, then, even though you should be satisfied from the evidence beyond a reasonable doubt that the defendant knew of the conspiracy and did not dissent from it, then such knowledge of the conspiracy on the part of the defendant would be insufficient to warrant you in presuming that he was guilty of the crime charged.

It was 6:30 o'clock when the jury was taken to dinner. Nearly every man was in the best of health, and some of them seemed on the verge of exhaustion. Juror Robertson, No. 9, who is 73 years of age, had to be assisted down stairs. Juror Messer, No. 7, taking his arm.

#### Little Chance of Verdict.

After they returned from dinner they sat about the jury room with their backs against the wall, and seemed to be in rather a sullen mood. Occasionally one or two of them would walk to a window and stand gazing out without talking to each other. John H. Murphy of Denver, the general counsel for the Western Federation of Miners, is very ill tonight in St. Alphonse hospital, and it is reported that his life is all but despaired of. He is suffering from tuberculosis, and has been too ill to attend the trial for a fortnight. Mr. Murphy has been the counsel for the federation for seven or eight years. He has acted in the Haywood case only in an advisory capacity.

At 8 o'clock tonight Judge Wood decided to change the jury quarters and to give them accommodations in one of the larger rooms on the first floor of the courthouse. Up to this time there had been no sign of a jury room that there was any chance of an agreement.

#### Five Verdicts Possible.

Judge Fremont Wood today delivered his charge to the jury into whose keeping was given the fate of William D. Haywood, secretary-treasurer of the Western Federation of Miners, charged with the murder of former Governor Frank Steunenberg of Idaho. He gave to the jury the choice of five verdicts, as follows:

Murder in the first degree, murder in the second degree, voluntary manslaughter, involuntary manslaughter and not guilty.

The charge contained sixty-six instructions. Judge Wood dwelt at length upon the laws of conspiracy and the value of the evidence given by an accomplice.

The law views such evidence with distrust, he declared, and it should be received by the jury with caution and scrutinized with great care. And if from the evidence it appears that any favors have been extended by the authorities to Orchard and there is any promise relating to further favors on account of his testimony they are proper matters for the jury to take into consideration.

Judge Wood's charge was lengthy, containing more than 12,000 words and covering the case from almost every viewpoint. It was regarded by both sides as eminently fair. If anything, it was the consensus of opinion that the court leaned to the defense. In regard to the corroboration of Orchard, Judge Wood said that the jury should test the value of such evidence by eliminating his testimony with a view to ascertaining if there is independent testimony tending to connect the defendant with the offense.

"This corroborating evidence," the court continued, "need not be sufficient of itself to establish the guilt of the defendant, but it must tend in some degree to implicate and connect the defendant with the commission of the crime charged."

Further along in his charge, Judge Wood said:

#### Presumption of Innocence.

"If it is possible for you to reconcile the facts in this case upon any reasonable theory consistent with the innocence of the defendant, William D. Haywood, it is your duty to do so and find the defendant not guilty."

"The jury is instructed that the flight of Jack Simpkins, if you find such flight to have taken place, standing alone would not of itself be any evidence of the guilt of the defendant. But if you find that Simpkins did after the arrest of Orchard flee or become a fugitive from justice then that fact may be taken into consideration, together with all the other facts of the case, in determining whether or not Simpkins was a member of the conspiracy which the State has sought to prove and of which conspiracy it is claimed by the State that the defendant was a member."

The court room was but half filled when the jury filed in shortly before 10 o'clock. Haywood came in smiling and bowed a salutation to his wife, his mother, his two daughters and sister, the entire family being present.

As Judge Wood took the bench the twelve jurymen who sat directly in front of him wheeled in their chairs, turned their backs upon the defendant and his attorneys and listened attentively to the lengthy charge.

#### Thanks to the Jury.

Before delivering his instructions Judge Wood said:

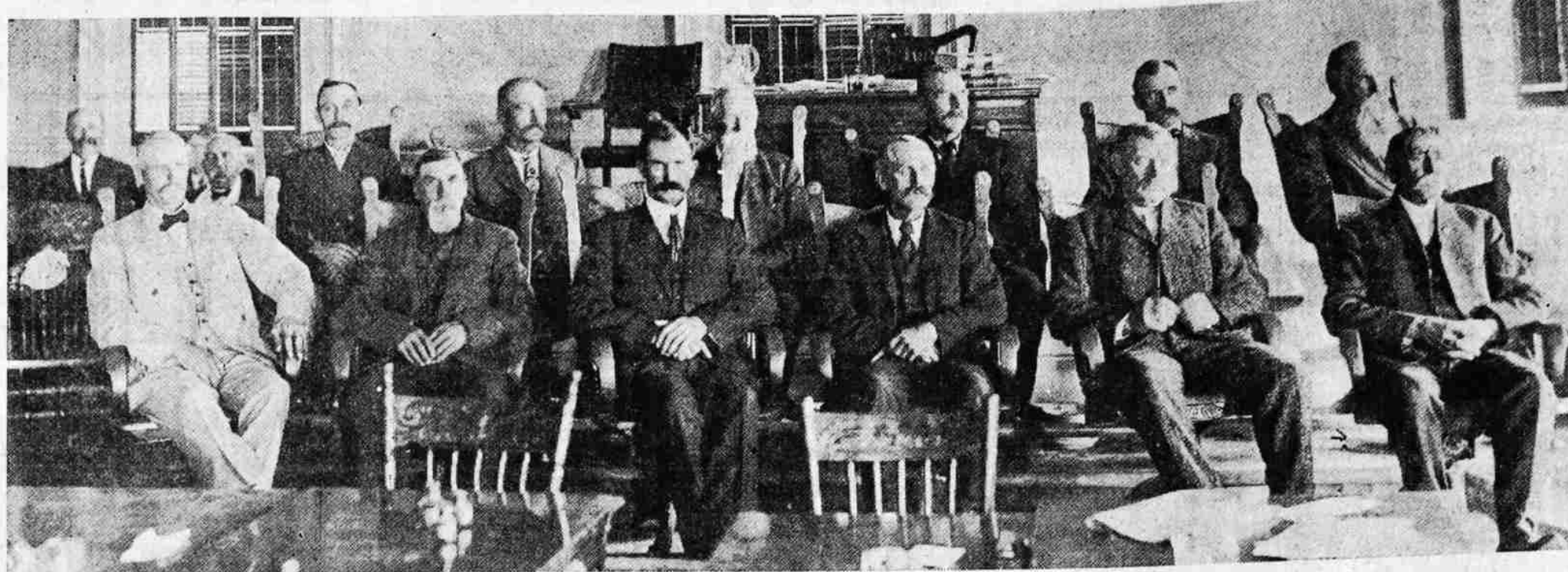
"Gentlemen of the jury: The evidence in the case being introduced, and the argument of counsel being completed, it now devolves upon the court to instruct you in relation to the law of the case, but before doing so I desire to join with counsel for the State and the defendant in congratulating you upon the approaching termination of your duties, and I also wish to extend to you and each of you the thanks of the court for the attentive manner in which you have thus far performed your duties as jurors in this case."

"You have been selected to this responsible position and for the performance of this important duty from a very large number of your fellow citizens, after a long, painstaking and a most thorough examination by the counsel. The oath which you took as jurors when sworn to try this case imposed upon you the most solemn duty that devolves upon any citizen, that of sitting in judgment upon your fellow men. You have been called here at the

#### Deafness Cannot be Cured

by local applications, as they cannot reach the diseased portion of the ear. There is only one way to cure deafness, and that is by constitutional remedies. Deafness is caused by an inflamed condition of the mucous lining of the Eustachian Tube. When this tube is inflamed you have a rumbling sound or imperfect hearing, and when it is entirely closed, deafness is the result. The inflammation can be taken out and this tube restored to its normal condition, hearing will be renewed. Nine cases out of ten are caused by Catarrh, which is nothing but an inflamed condition of the mucous surfaces.

We will give One Hundred Dollars for any case of Deafness caused by catarrh that cannot be cured by local Catarrh Cure. Send for circulars, free. E. J. CHENEY & CO., Toledo, O. Sold by Druggists. Take Hall's Family Pills for constipation.



The Haywood Jury—Reading from the lower right hand corner: Thomas B. Gess, Finley McBean, Samuel D. Gilman, Daniel Clark, George Powell, O. V. Sobern, H. F. Messer, Lee Schrivener, J. A. Robertson, Levi Smith, A. P. Burns, Samuel Russell.

busiest season of the year, and perhaps when many of you could not well afford to be absent from your respective vocations, but the duties here imposed were necessary and are essential under our system of government, and if any of you consider the performance of this duty a burden or a hardship you should feel fully recompensed therefor in the fact that your selection to try this case, from the very large number of jurors examined, is a splendid testimonial to your citizenship and should be accepted as a guarantee that you will give this case that conscientious consideration which the law imposes upon you when you take it with you to your jury room for final action thereon."

After the customary instruction as to the general duties of the jurors as to the law and evidence, Judge Wood instructed the jurors in accordance with his ruling made some days ago, after argument by counsel as to the admissibility of the evidence bearing on the connection of Steve Adams with crimes committed in northern Idaho. This evidence and also that introduced by the defense regarding deportations in Colorado and the employment of Pinkerton detectives by the mine owners, Judge Wood instructed the jury not to consider, on the ground that no proper connection had been made in either case.

#### Proof Must Be Clear.

Instructions as to the necessity for the clear and conclusive proof beyond any reasonable doubt of every material fact were followed by the quoting of the indictment on which Haywood, together with Moyer and Pettibone, were arrested. On this subject Judge Wood said:

"There are three counts in the indictment, but the substance of each of them is the unlawful, wilful, deliberate, premeditated and felonious killing of the said Frank Steunenberg with a view to the accomplishment of the offense charged in the indictment consist of the following features:

"First, there must have been a killing; second, that killing must have been unlawful; third, it must have been wilful; fourth, it must have been premeditated; fifth, it must have been accomplished by malice in the mind of the person or persons doing the killing; and unless these features, and each and every one of them are proven to your satisfaction, beyond a reasonable doubt, then the defendant cannot in any event be convicted of murder in the first degree."

The language of the statute was given as to murder in the first and second degree, and voluntary and involuntary manslaughter.

Continuing, Judge Wood said: "The court instructs the jury that under the law no jury should convict a citizen or citizens of crime simply because there is strong reason to believe that he is guilty, but before a jury can lawfully convict they must be convinced of the defendant's guilt beyond all reasonable doubt."

If it is possible for you to reconcile the facts in this case upon any reasonable theory consistent with the innocence of the defendant, William D. Haywood, it is your duty to do so and find the defendant not guilty."

#### Evidence of Conspiracy.

"I further instruct you, gentlemen of the jury, that while proof has been admitted of the commission of other crimes by the defendant and his associates, and tending to prove the commission of such other crimes by them, that it has only been admitted for the purpose of showing the existence of a conspiracy to accomplish certain objects, and that such crimes and the crime resulting in the death of ex-Governor Steunenberg as well, were all incidents of such conspiracy; but you must not forget that the defendant is being tried for the murder of Frank Steunenberg, and for that crime alone. But you are privileged to take such other matters into consideration as part of the evidence in the case, and of incidents and circumstances, upon the question of his guilt upon the charge of the murder of Frank Steunenberg."

"It makes no difference, however, in this case what crimes have been committed in Colorado, in the Cour d'Alenes, or elsewhere, or who is responsible for the commission of such crimes, if any there be. The defendant cannot be convicted unless the State has established beyond a reasonable doubt that he is guilty of the felonious killing of Frank Steunenberg."

"A conspiracy, within the meaning of the criminal law, consists of a combination between two or more persons for the purpose of accomplishing a criminal or unlawful object, or a lawful object in an unlawful manner. As applied in this case and under this indictment, proof of conspiracy is only proper in so far as it may tend to show a common design to encourage the particular murder charged against the defendant, and it can only be introduced for the purpose of establishing the position of the members of the combine as accessories to the crime of murder."

"It is not essential to the formation of a conspiracy that there should be a formal agreement between the parties to the conspiracy, or that the act charged, although such agreement be not manifested by any formal words. A conspiracy in the first instance may be established by evidence having no relation to the defendant, by acts of dif-



Albert Horsley, alias Harry Orchard, alias Thomas Hogan, slayer of former Governor Steunenberg, and chief witness for the State in the Haywood trial.

ferent persons at different times and places, or by any other circumstances which prove its existence. It is sufficient if the State proves beyond a reasonable doubt that such a conspiracy existed at the time of the commission of the unlawful act, and that the defendant on trial was a member of such conspiracy. An act done by a party to an unlawful conspiracy in furtherance thereof and naturally flowing from the common design, is the act of each and all of the conspirators. And where murder is committed as the result of such a conspiracy, each one of the conspirators, even though he was not present at the place of the crime, if he aided, abetted and encouraged the commission of the unlawful acts resulting in the crime charged, is guilty."

"If the prosecution failed to prove these facts beyond a reasonable doubt, you should find the defendant not guilty. If, however, you believe in this case from the evidence beyond a reasonable doubt that the defendant, William Haywood, aided, abetted, advised and encouraged the killing of Frank Steunenberg, then the defendant is guilty, and it would be immaterial whether he was actually present at the time of the killing or not."

The witness Harry Orchard claims that he was an accomplice in the commission of the offense charged in the indictment. Under the statutes of this State a person cannot be convicted of a crime upon the testimony of an accomplice unless such accomplice is corroborated by other evidence which of itself, and without the aid of the testimony of the accomplice, tends to connect the defendant with the commission of the offense charged, and the corroboration is not sufficient if it merely shows the commission of the offense or the circumstances thereof."

#### Can't Trust Accomplice.

"The law views with distrust the testimony of an accomplice on account of the motive he may have for laying the responsibility of his crime upon another when by so doing he may secure immunity for his own participation in the crime charged. For this reason the law exacts such corroboration, and although the jury may believe that the testimony of an accomplice is true, still the jury could not convict the defendant upon such testimony unless they further find that the testimony of the accomplice is corroborated by other and independent evidence."

"This corroborating evidence need not be sufficient of itself to establish the guilt of the defendant, but it must tend in some degree to implicate and connect the defendant with the commission of the crime charged."

"In order to ascertain whether or not the testimony of the accomplice is corroborated, as the law provides it must be before a conviction would be warranted, you should eliminate from the case the evidence of the accomplice and examine the evidence of the other witnesses with the view to ascertain if



Clarence Darrow, Chief of Haywood's Counsel.

there be evidence tending to connect the defendant with the offense. If there is, the accomplice is corroborated; if there is no corroborative evidence there is no corroboration, though the testimony of the accomplice, such facts should not be considered by you or have any influence upon your deliberations. You are here to try and determine this case between the State of Idaho and the defendant, William D. Haywood."

"I herewith submit for your consideration appropriate forms of verdict suitable to any conclusion you may reach."

are applied to other witnesses, and the jury may take into consideration the interest he may have in the case in determining the weight to be given to his testimony."

"In conclusion, you are to determine the question as to whether or not the defendant killed and murdered Frank Steunenberg as charged in the indictment, or aided and abetted such killing. If so, you should find him guilty; if not, you should find him not guilty."

"Under the indictment in this case the defendant may, if the evidence warrants it, be convicted of murder of the first degree, murder of the second degree, or manslaughter."

"Gentlemen of the jury, the court now delivers this case into your hands. It is your duty to consider it and deliberate upon it without fear and without favor. If the evidence shows that any individual or individuals, any person in any private or official capacity, or any class or classes of people are interested in any way in the conviction or acquittal of this defendant, such facts or facts should not be considered by you or have any influence upon your deliberations. You are here to try and determine this case between the State of Idaho and the defendant, William D. Haywood."

"If you believe from the evidence that the witness Harry Orchard was induced or influenced to become a witness and to testify in this case by any promise of immunity from prosecution or punishment, or by any hope held out to him that if he testified against the defendant he would not be prosecuted or punished, then the jury should take such facts into consideration in determining the weight which ought to be given to testimony so obtained. Such testimony should be received by the jury with caution and scrutinized with great care."

"And, if from the evidence it appears that any favors have been extended by the authorities of the State of Idaho to the witness Harry Orchard, and there is any promise, either express or implied, relating to further favors to be received by him on account of his testimony in this case, then these are proper matters for the consideration of this jury, as affecting the credibility of his testimony."

"Certain articles have been received in evidence from the Miners' Magazine for the sole purpose of determining whether or not any motive existed upon the part of the defendant to participate in the offense charged in the indictment and not for the purpose of establishing in any wise the commission of such an offense."

"The jury is further instructed that by statutory provision the defendant in a criminal case is made a competent witness in his own behalf, and where he testifies, as in this case, becomes the same in all respects as any other witness, and his testimony must be tested by the same rules or tests that

are applied to other witnesses, and the jury may take into consideration the interest he may have in the case in determining the weight to be given to his testimony."

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"I herewith submit for your consideration appropriate forms of verdict suitable to any conclusion you may reach."

#### NEW BOOKS FOR

#### PUBLIC LIBRARY

The following twenty books will be added to the public library Monday morning, July 29:

- Avery—"History of the United States," vol. 3.
- Barnard, ed.—Strongbow's "Conquest of Ireland."
- Beard—"Introduction to English History."
- Capes—"Early Roman Empire."
- Gorst—"Children of the Nation."
- Hazleton—"Declaration of Independence; Its History."
- Hosmer—"Appeal to Arms."
- Ober—"Heroes of American History."
- Parker—"Gallies at Santiago."
- U. S. Census 1790, Heads of Families, Maryland. (Reference.)
- U. S. Census 1790, Heads of Families, Vermont. (Reference.)
- U. S. Census 1790, Heads of Families, Virginia. (Reference.)
- Fiction.
- Corbin—"Cave Man."
- McCarthy—"Illustrations of Hagan."
- Martin—"His Courtship."
- Watson—"Privateers."
- Children's Books.
- Encyclopedic Atlas. (Reference.)
- Ewald—"Spiders and Other Tales."
- Stockton—"Tales Out of School."
- Turley—"Godfrey Marten—School-boy."

#### PARK CITY MEN FORM

#### NEW MINING COMPANY

The East Daly Mining company of Park City filed articles of incorporation Saturday with the Secretary of State. The company owns claims in the Blue Ledge mining district in Wasatch county. The capital stock is \$300,000, divided into shares of the par value of \$1 each. The officers are: President, Michael Fitzgerald; vice president, George Curley; treasurer, John P. Cahoon; secretary, Henry Shields. These, with Murt McPolin and James Tierney, compose the board of directors.

The Cache Valley Condensed Milk & Creamery company of Logan filed with the Secretary of State an amendment to its articles of incorporation changing its name to the Cache Valley Condensed Milk company.

## BAMBERGER ROAD BRIDGING THE WEBER

### Interurban Line Will Be in Operation Before Close of Year.

Work on the big bridge over the Weber river, which is to connect Salt Lake and Ogden over the Bamberger road and give to the district between the two cities its first interurban service, was commenced Saturday. No delay in the completion of the work will be experienced, as all the supplies for the construction of the bridge are on the ground.

After considerable delay and much investigation, it was decided by Mr. Bamberger that a steel bridge would require too much time, both as to construction and securing of material. He investigated the construction of bridges with concrete and decided that such a bridge could be built in much shorter time and give more satisfactory results. The bridge will be over 200 feet long and have two seventy-five foot spans. It will be double tracked.

The pile-driver has been set to work on the river bank and an army of men with boats are on hand to assist in carrying on the construction. It is the plan of President Bamberger to push the work so that trains will be running between Salt Lake and Ogden before the close of the present year.

At the same time the bridge is being constructed, the company will complete the remaining mile and a half necessary to carry their tracks into the heart of Ogden. This part of the work will be some of the most difficult encountered in laying the tracks between the two cities. For over half a mile a deep cut, varying in depth from fifty to seventy-five feet, must be made, but as a reward for this work the company will have the shortest route between the two points.

As soon as the road has been completed and the service given a fair trial, President Bamberger will begin its electrification. This will require the expenditure of over half a million dollars, but when the road is completed it will be the only one of any length in Utah, giving the interurban service so common in the East and Middle West.

At present it is not anticipated that the road will be extended further south than Salt Lake, but the Ogden end of the line will be extended into Ogden canyon before the middle of 1908.

#### ED HARRIS'S LIBERTY

#### VERY SHORTLIVED

Ed Harris, a negro, is occupying the dungeon at the city jail on a bread and water diet for his attempted escape Saturday morning. Harris, who is serving a fifty-day sentence for petty larceny, got into the good graces of Jailor Wilkinson, and was elevated to the place of inside trusty. After court Saturday morning he was given a pile of slop to empty, and upon getting a whiff of free air, gave the confound to the jailer, and placed in him a shock by turning a clean pair of heels to the city bastille.

Wilkinson can run some himself, and he gave chase. Assisted by an electrician named Shelley, the jailer overhauled Harris after he had traversed the length of two or three alleys, at a rate that would have made a motor cycle look like a lumbering ox wagon.

#### WEEKLY HEALTH REPORT

Thirty-seven babies—nineteen males and eighteen females—were born in Salt Lake last week, according to reports made to the city health department. There were twelve deaths during the week, and two bodies were shipped in here for burial.

Eleven cases of contagious and infectious disease, consisting of three cases of scarlet fever, one case of whooping cough and seven cases of typhoid fever, were reported. At the end of the week cases were in quarantine as follows: smallpox, 1; scarlet fever, 9; diphtheria, 3.

#### CIVIL WAR VETERAN

#### ADJUDGED INSANE

James Stevenson, a veteran of the Civil war, was adjudged insane in Judge Ritchie's division of the District court Saturday and committed to the asylum at Provo. Stevenson is a teamster, and is employed by Hanley & Ritchie, contractors. His wife lives in Durango, Colo.

The old man's insanity is not of the violent kind. He has delusions of persecution, and thinks people are following him. He says he is 76 years old, but he does not look that age.

One-third off on all Hammocks for cash, at I. X. L. Furniture. The Big Store.

**BIG GROWTH IN NEW DIRECTIONS**

Salt Lake City Shows Opportunities of Great West.

POPULATION OF CITY AND SUBURBS NOW

Great Progress in Municipal Improvement Commented Upon

R. L. Polk and Co. issued their annual directory of Salt Lake City and suburbs Saturday. The book is in a blue cloth cover. It contains about seven hundred names in the book is 22,500. The population of Salt Lake City and suburbs, the population of the city is 22,500. The population of the city is 22,500. The population of the city is 22,500.

"Since our directory for 1907 has been issued, the population of Salt Lake City and suburbs has increased by 1,000. The population of the city is 22,500. The population of the city is 22,500.

"There is just now being a great improvement in the city. The population of Salt Lake City and suburbs has increased by 1,000. The population of the city is 22,500. The population of the city is 22,500.

"The trend of the city is towards the west. The population of Salt Lake City and suburbs has increased by 1,000. The population of the city is 22,500. The population of the city is 22,500.

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**HABEAS CORPUS CASE IS SET FOR**

The habeas corpus case of person and Richard D. Stevenson, serving terms in the State Prison, was set for trial in Judge Ritchie's division of the District court Monday morning. The case was set for trial in Judge Ritchie's division of the District court Monday morning. The case was set for trial in Judge Ritchie's division of the District court Monday morning.

#### HUSBAND ACCUSES WIFE OF

M. Irwin Meredith, of the District court Saturday, accused his wife, Lydia Meredith, of a crime. The case was set for trial in Judge Ritchie's division of the District court Monday morning. The case was set for trial in Judge Ritchie's division of the District court Monday morning.

#### Kodak Flashing

Salt Lake Photo Supply Main St.

#### WHEN IN OGDEN

Go to the Vienna. Catch your own trout and eat it. Finest cuisine. Orchestra Every Afternoon.

#### Union Dent

218 South Main

#### Honest Work

Painless Extraction of Teeth. 1124-X, Ind. 1124.